Doc Code: AP.PRE.REQ

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 199-0082US-C	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _March 20, 2006_ Signature_____ Typed or printed name Rebecca R. Ginn	Application Number 10/719,318	Filed November 21, 2003
	First Named Inventor Patrick Vanderwilt	
	Art Unit 2643	Examiner Melur Ramakrishnaiah

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
    Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
    See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
    (Form PTO/SB/96)

☒ attorney or agent of record.
    Registration number   46,147

☐ attorney or agent acting under 37 CFR 1.34.

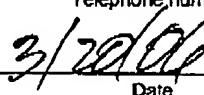   Registration number if acting under 37 CFR 1.34 _____

Signature
Billy C. Allen III
Typed or printed name

832/446-2400
Telephone number

3/20/06
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

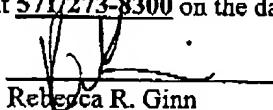☐ *Total of _____ forms are submitted.

```
+---------------------------------------------------------------+
|            CERTIFICATE OF FACSIMILE TRANSMISSION              |
|                     37 C.F.R. § 1.8                           |
|                                                               |
| I hereby certify that this correspondence is being facsimile  |
| transmitted to the U.S. Patent                                |
| and Trademark Office at 571/273-8300 on the date below.       |
|                                                               |
| March 20, 2006                                                |
| Date                     Rebecca R. Ginn                      |
+---------------------------------------------------------------+
```

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§ CUSTOMER NO. 29855
Patrick Vanderwilt et al.	§
	§ Confirmation No. 3804
	§
Serial No. 10/719,318	§ Docket No. 199-0082US-C
	§
Filed: November 21, 2003	§ Art Unit: 2643
	§
For: Conferencing System Having an	§ Examiner: Melur Ramakrishnaiah
Embedded Web Server, and Methods	§
of Use Therefor	§

PRE-APPEAL BRIEF CONFERENCE SUBMISSION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is filed in response to the Final Office Action mailed January 17, 2006 and in conjunction with a Notice of Appeal. The Office is authorized to charge the Notice of Appeal Fee of $500 under 37 CFR § 41.20(b)(1) to Deposit Account 501922 referencing docket number 199-0082US-C. It is believed that no other fees are due in connection with this response; however, should any fees or refunds be due, the Office is authorized to charge such fees or credit such refunds to Deposit Account 501922 referencing docket number 199-0082US-C.

<u>REMARKS</u>

Claims 2–25 are pending, were rejected, and are appealed. Reconsideration of these claims in a Pre-Appeal Brief Conference is requested.

The Examiner has rejected all pending independent claims (*i.e.*, claims 2, 9–11, 18, and 24–25) under 35 U.S.C. § 103(a) as obvious over U.S. Patent No. 5,617,539 to Ludwig ("Ludwig") in view U.S. Patent 5,596,487 to Venkatraman ("Venkatraman"). However, there are two fatal flaws in this rejection. First, the combination of Ludwig and Venkatraman is improper. Second, even if the proposed combination were proper, it still fails to teach or suggest each limitation of Applicant's claims.

The Cited References

Ludwig discloses a "multimedia collaboration system" that integrates multiple communication networks. The system is built around a "collaborative multimedia workstation (CMW)," which is a general purpose computer that includes, among other things, multimedia capabilities. This multimedia capability may be used for videoconferencing, data conferencing, telephony, etc. Two aspects of Ludwig are critically important as relates to Applicant's pending claims.

The first critical aspect is that Ludwig does not teach a dedicated, appliance-type video conferencing system as disclosed and claimed by Applicant. In fact, Ludwig specifically teaches away from these systems, noting that:

> [D]edicated videoconferencing systems ... do not effectively leverage the investment in existing embedded information infrastructures—such as desktop personal computers and workstations, local area network (LAN) and wide area network (WAN) environments, building wiring, etc.... [T]hey attempt to add computing capabilities to a videoconferencing system, rather than adding multimedia and collaborative capabilities to the user's existing computer system. Thus, while such systems may be useful in limited contexts, they do not provide the capabilities required for maximally effective collaboration, and are not cost-effective.

Ludwig at col. 2, ll. 25–39. From this passage (and others), it is clear that Ludwig would be understood by one skilled in the art to teach integrating multimedia and collaboration features into general purpose office computer. Moreover, one skilled in the art would understand Ludwig to teach away from expanding the functionality of dedicated video conferencing systems. The second critical aspect is that, as Examiner has repeatedly conceded, Ludwig does not teach that

the CMW includes, in any way shape or form, an embedded web server.

Examiner proposes Venkatraman to supply the missing embedded web server limitation. Venkatraman does disclose an embedded web server within a variety of devices. However, as discussed in greater detail below, Venkatraman does not disclose a web server that performs the various functions required by Applicant's claims.

Clear Error #1: The Combination of Ludwig and Venkatraman Is Improper.

As noted above, throughout prosecution the Examiner has conceded that Ludwig does not teach a video conferencing unit having an embedded web server, which is required by each of independent claims 2, 9, 10–11, 18, and 24–25. Examiner proposes Venkatraman to supply this missing limitation, *i.e.*, a video conferencing unit having an embedded web server. However, this combination is clearly improper.

A *prima facie* case of obviousness requires among other things: (1) suggestion or motivation to combine the references, and (2) reasonable expectation of success. *See* MPEP § 2142. However, there is no suggestion or motivation to combine Ludwig and Venkatraman. In fact, *Ludwig expressly teaches away from the combination proposed by the Examiner.* Moreover, one skilled in the art could not reasonably expect success in the proposed combination.

As noted above, Ludwig expressly teaches that adding multimedia collaboration features to general purpose computers is preferable to adding additional computing capabilities go dedicated videoconferencing systems. Ludwig's disclosure then focuses on adding multimedia capabilities to general purpose computer systems. Therefore, Ludwig explicitly and implicitly teaches away from adding additional computing capabilities (such as an embedded web server) to a dedicated videoconferencing system. Moreover, one skilled in the art reading Ludwig's teaching that videoconferencing systems with added computing capabilities are not maximally effective for collaboration or cost effective could not reasonably expect success by adding computing capabilities to a videoconferencing system.

However, Examiner's proposed combination of Ludwig and Venkatraman would do exactly that, *i.e.*, add computing capabilities (the embedded web server of Venkatraman) to a video conferencing system (taught by Ludwig). Examiner's suggestion in the most recent final office action that an embedded web server is not additional computing capability is absurd.

Therefore, the combination of Ludwig and Venkatraman is improper because there is no suggestion or motivation to combine the references, and thus Examiner's rejection is clearly in error.

Clear Error #2: The Combination of Ludwig and Venkatraman Fails to Teach Each Limitation of the Independent Claims.

Moreover, even if the proposed combination of Ludwig and Venkatraman was proper, the proposed combination still does not disclose every limitation of the pending independent claims. For example, claim 2 requires, "a web server embedded within the videoconferencing unit ... for transmitting a web page ..., *wherein the web page allows the user to select a file for broadcast to the videoconferencing unit or allows the user to view a file being transmitted by the videoconferencing unit.*" Ludwig contains no teaching at all concerning an embedded web server. While Venkatraman does disclose an embedded web server, it does not teach or suggest that this web server presents a web page that allows selection of a file for broadcast to a videoconferencing unit or view a file being transmitted by the videoconferencing unit. Examiner's assertion to the contrary is simply without merit.

Similarly, claim 9 requires, "a web server embedded within the videoconferencing unit ... for transmitting a web page ..., *wherein the web page allows the user to perform diagnostic testing on the videoconferencing unit.*" Again, Ludwig contains no teaching whatsoever of an embedded web server. The web server of Venkatraman is configured for various general purpose user interface tasks, but contains no teaching or suggestion that the web server can be used "to perform diagnostic testing on the videoconferencing unit," which, as illustrated by Applicant's specification examples, includes activities such as testing audio components, testing near and far end communications loops, etc. Venkatraman contains no teaching or suggestion of such higher level diagnostic testing.

Finally, claim 10 requires, "a web server embedded within the videoconferencing unit ... for transmitting a web page ..., *wherein the web page allows the user to modify configuration parameters of the videoconferencing unit.*" Ludwig contains no teaching or suggestion of an embedded web server of any type. As noted above, the embedded web server disclosed in Venkatraman is merely a user interface for a variety of devices that are not videoconferencing

systems. Venkatraman contains no teaching or suggestion of a web server that allows a user to "modify configuration parameters of the videoconferencing unit."

Furthermore, it can be argued that Ludwig does not even disclose a videoconferencing unit as that term is used by each pending independent claim. Ludwig makes clear that rather than add computing capabilities to dedicated videoconferencing units, it is preferable to add multimedia conferencing capabilities to general purpose computers. Conversely, Applicant's claims and specification make clear that it relates to dedicated videoconferencing units and not multimedia enabled computers. In fact, multimedia enabled computers are discussed as peripherals that may be connected to the dedicated videoconferencing unit by the network interface. Thus, videoconferencing unit, as used in Applicant's specification and claims clearly means a dedicated videoconferencing system, and not the multimedia enabled general purpose workstation discussed in Ludwig.

In summary, the Examiner is in clear error because elements of each independent claim are simply not found in the combination of Ludwig and Venkatraman.

Conclusion

Although only independent claims 2, 9, and 10 are directly addressed above, Examiner noted that: (1) independent claims 11 and 18 were rejected for the same reasons set forth in claim 2; and (2) independent claims 24 and 25 were rejected for the same reasons as claims 9 and 10, respectively. Each of these method claims includes an embedded web server limitation similar to the embedded web server limitation in the corresponding apparatus claim identified by Examiner. Therefore these claims are allowable for at least the reasons discussed above. Examiner's rejection of claims 5–6, 14–15, and 20–21 is based on Ludwig and Venkatraman in further view of Craig. However, each of these claims depends from one of the independent claims identified above, and is therefore allowable.

For at least the reasons stated above, each and every pending claim is allowable over the cited art of record, and Examiner's failure to issue a notice of allowance of these claims amounts to clear error.

* * * * *